



U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

April 17, 2014

BY ECF

Hon. Edgardo Ramos
United States District Judge
United States District Court
500 Pearl Street
New York, New York 10007

**Re: *Restis et al. v. American Coalition Against Nuclear Iran, et al.*,
No. 13 Civ. 5032 (ER) (KNF)**

Dear Judge Ramos:

This Office represents the United States of America (the “Government”), a nonparty with a potential interest in discovery issues presented in the above-referenced matter. I write to request an extension of time for the Government to submit an *ex parte* motion regarding governmental privilege, which the Government initially anticipated submitting during the week of March 31, 2014. *See* Letter to the Hon. Edgardo Ramos from AUSA Michael J. Byars, dated March 10, 2014, dkt. item 78. The Government respectfully requests an additional thirty days from today’s date for the Government to conduct further internal review regarding the possible assertion of privilege.

This is the Government’s second request for an extension of the schedule proposed in its March 10, 2014 letter, which was so-ordered by the Court that same day. *See* dkt. item 83. By letter dated April 2, 2014, the Government requested a two-week extension, which the Court granted by order dated April 4, 2014. *See* dkt. item 100. The April 4 order also directed the Government to provide additional information regarding the “nature of the privilege(s) asserted, as well as the reason(s) for invoking the privilege(s).” *Id.* The Government responded on April 9, 2014, explaining that it had “a good faith basis to believe that certain information at issue in discovery is properly protected from disclosure pursuant to the law enforcement privilege, but [could not] at this stage further discuss the nature of the information or whether, how, and/or to what extent it wishes to assert any privilege in this matter without risking disclosure of the potentially privileged information at issue.” Letter to the Hon. Edgardo Ramos from AUSA Michael J. Byars, dated April 9, 2014, dkt. item 107. The Government’s April 9 letter further explained that “[a]ny submission would require formal Justice Department authorization and remains under consideration.” *Id.*

The additional time is necessary for further consideration of the issues presented by this case, including those raised in Plaintiffs’ letter of April 14, 2014. In particular, further

examination of this matter following the Government's April 2 submission led to the identification of additional issues that must be considered within the Department of Justice before any submission can be made. These deliberations encompass officials of the Department of Justice in New York and Washington, D.C. Notwithstanding the speculation in Plaintiffs' April 14, 2014 letter regarding the circumstances that may be at issue here the Court should hear from the Government regarding the matters at issue, and additional time is required to complete our deliberations.¹

The Government is sensitive to the delay in resolving the parties' dispute that this request may cause and regrets having to again seek additional time, but believes, based on further inquiry since its April 2 submission, that a shorter extension will not permit the Government adequate time to complete the required deliberative processes before advising the Court further with respect to its interests in this matter. The Government is diligently reviewing this matter and will use best efforts to complete that review and report back to the Court as quickly as possible.

To avoid potential prejudice to the parties and the Government if discovery were to proceed, the Government also respectfully requests that the action be stayed during the thirty-day period requested by the Government.

Counsel for plaintiffs has informed the undersigned that plaintiffs oppose the Government's requests for a thirty-day extension and for a stay, for reasons to be provided by counsel in a separate letter to the Court. Counsel for defendants has consented to the Government's request for a thirty-day extension, but needs additional time for consultation regarding defendants' position on the proposed stay.

We thank the Court for its consideration.

Respectfully submitted,

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¹ Should the Court require a further explanation from the Government as to the underlying circumstances under review, we respectfully request an opportunity to provide such an explanation *ex parte* at the Court's convenience.